

H. R. 1158.

(No Report.)

FEBRUARY 16, 1839.

Read twice, and committed to the Committee of the Whole House on the state of the Union.

Mr. ISAAC FLETCHER, from the Committee on Patents, reported the following bill :

A BILL

In addition to an act to promote the progress of the useful arts.

1 *Be it enacted by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled, That*
3 there shall be appointed, in manner provided in the second
4 section of the act to which this is additional, two assistant
5 examiners, each to receive an annual salary of twelve hun-
6 dred and fifty dollars.

1 SEC. 2. *And be it further enacted, That the Commis-*
2 sioner be authorized to employ temporary clerks to do any
3 necessary transcribing, whenever the current business of the
4 office requires it : *Provided, however, That, instead of salary,*
5 a compensation shall be allowed at a rate not greater than is
6 charged for copies now furnished by the office.

1 SEC. 3. *And be it further enacted, That the Commis-*
2 sioner is hereby authorized to publish a classified and alpha-
3 betical list of all patents granted by the Patent Office previ-
4 ous to said publication, and retain one hundred copies for the

5 Patent Office, and nine hundred copies be deposited in the
6 library of Congress, for such distribution as may be hereafter
7 directed ; and that one thousand dollars, if necessary, be ap-
8 propriated, out of the patent fund, to defray the expense of
9 the same.

1 SEC. 4. *And be it further enacted*, That the sum of
2 three thousand six hundred and fifty-nine dollars and twenty-
3 two cents be, and is hereby, appropriated from the patent
4 fund, to pay for the use and occupation of rooms in the City
5 Hall by the Patent Office.

1 SEC. 5. *And be it further enacted*, That the sum of one
2 thousand dollars be appropriated from the patent fund, to be
3 expended under the direction of the Commissioner, for the
4 purchase of necessary books for the library of the Patent
5 Office.

1 SEC. 6. *And be it further enacted*, That no person shall
2 be debarred from receiving a patent for any invention or dis-
3 covery, as provided in the act approved on the fourth day of
4 July, one thousand eight hundred and thirty-six, to which
5 this is additional, by reason of the same having been patent-
6 ed in a foreign country more than six months prior to his ap-
7 plication : *Provided*, That the same shall not have been in-
8 troduced into public and common use, in the United States,
9 prior to the application for such patent : *And provided, also*,
10 That, in all cases, every such patent shall be limited to the

11 term of fourteen years from the date of publication of such
12 foreign letters-patent.

1 SEC. 7. *And be it further enacted,* That every person
2 or corporation who has, or shall have, purchased or construct-
3 ed any newly-invented machine, manufacture, or composition
4 of matter, prior to the application by the inventor or discov-
5 erer for a patent, shall be held to possess the right to use,
6 and vend to others to be used, the specific machine, manu-
7 facture, or composition of matter so made or purchased, with-
8 out liability therefor to the inventor, or any other person in-
9 terested in such invention ; and no patent shall be held to be
10 invalid by reason of such purchase, sale, or use prior to the
11 application for a patent as aforesaid, except on proof of aban-
12 donment of such invention to the public.

1 SEC. 8. *And be it further enacted,* That so much of the
2 eleventh section of the above-recited act as requires the pay-
3 ment of three dollars to the Commissioner of Patents for
4 recording any assignment, grant, or conveyance of the whole
5 or any part of the interest or right under any patent, be, and
6 the same is hereby, repealed: and all such assignments,
7 grants, and conveyances shall, in future, be recorded without
8 any charge whatever.

1 SEC. 9. *And be it further enacted,* That a sum of money,
2 not exceeding one thousand dollars, be, and the same is here-
3 by, appropriated, out of the patent fund, to be expended by

4 the Commissioner of Patents in the collection of agricultural
5 statistics, and for other agricultural purposes ; for which the
6 said Commissioner shall account in his next annual report.

1 SEC. 10. *And be it further enacted*, That the provisions
2 of the sixteenth section of the before-recited act shall extend
3 to all cases where patents are refused for any reason whatever,
4 either by the Commissioner of Patents or by the chief jus-
5 tice of the District of Columbia, upon appeals from the decis-
6 ion of said Commissioner, as well as where the same shall
7 have been refused on account of, or by reason of, interference
8 with a previously-existing patent ; and in all cases where there
9 is no opposing party, a copy of the bill shall be served upon
10 the Commissioner of Patents, when the whole of the expenses
11 of the proceeding shall be paid by the applicant, whether the
12 final decision shall be in his favor or otherwise.

1 SEC. 11. *And be it further enacted*, That in all cases
2 where an appeal is now allowed by law from the decision of
3 the Commissioner of Patents to a board of examiners provi-
4 ded for in the seventh section of the act to which this is addi-
5 tional, the party, instead thereof, shall have a right to appeal
6 to the chief justice of the district court of the United States
7 for the District of Columbia, by giving notice thereof to the
8 Commissioner, and filing in the Patent Office, within such
9 time as the Commissioner shall appoint, his reasons of ap-
10 peal, specifically set forth in writing, and also paying into the

11 Patent Office, to the credit of the patent fund, the sum of
12 twenty-five dollars. And it shall be the duty of said chief
13 justice, on petition, to hear and determine all such appeals,
14 and to revise such decisions in a summary way, on the evi-
15 dence produced before the Commissioner, at such early and
16 convenient time as he may appoint, first notifying the Com-
17 missioner of the time and place of hearing, whose duty it
18 shall be to give notice thereof to all parties who appear to be
19 interested therein, in such manner as said judge shall pre-
20 scribe. The Commissioner shall also lay before the said
21 judge all the original papers and evidence in the case, to-
22 gether with the grounds of his decision, fully set forth in
23 writing, touching all the points involved by the reasons of
24 appeal, to which the revision shall be confined. And at the
25 request of any party interested, or at the desire of the judge,
26 the Commissioner and the examiners in the Patent Office
27 may be examined under oath, in explanation of the princi-
28 ples of the machine or other thing for which a patent, in such
29 case, is prayed for. And it shall be the duty of said judge,
30 after a hearing of any such case, to return all the papers to
31 the Commissioner, with a certificate of his proceedings and
32 decision, which shall be entered of record in the Patent Office ;
33 and such decision, so certified, shall govern the further pro-
34 ceedings of the Commissioner in such case : *Provided, how-*

35 ever, That no opinion or decision of the judge in any such
36 case, shall preclude any person interested in favor or against
37 the validity of any patent which has been, or may hereafter
38 be granted, from the right to contest the same in any judi-
39 cial court, in any action in which its validity may come in
40 question.

1 SEC. 12. *And be it further enacted,* That the Commis-
2 sioner of Patents shall have power to make all such regu-
3 lations in respect to the taking of evidence to be used in con-
4 tested cases before him, as may be just and reasonable. And
5 so much of the act to which this is additional, as provides for
6 a board of examiners, is hereby repealed.

1 SEC. 13. *And be it further enacted,* That there be paid
2 annually, out of the patent fund, to the said chief justice, in
3 consideration of the duties herein imposed, the sum of one
4 hundred dollars.